

Attorney Docket No. 9310.13DVCTDV  
Serial No.: 10/036,729  
Filed: December 21, 2001  
Page 4 of 5

### REMARKS

Claims 6-9, 26, 27 and 32-34 are pending in this application. Claim 6 is amended herein to point out particular features of the claimed invention so as to expedite the prosecution of the present application to allowance in accordance with the USPTO Patent Business Goals (65 Fed. Reg. 54603, September 8, 2000). Support for this amendment is found in the language of the original claims and throughout the specification, as set forth below. This amendment has been included to put this application in better condition for allowance and introduces no new matter, and Applicants respectfully request entry thereof. In light of this amendment and the following remarks, applicants respectfully request reconsideration of this application and allowance of the claims to issue.

#### I. Allowed claims

Applicants gratefully acknowledge that claims 7, 8, 26, 27 and 32-34 are allowed.

#### II. Rejection under 35 U.S.C. § 102(b)

The Office Action states that claims 6 and 9 are rejected for allegedly being anticipated by Ambinder et al. (1989). In particular, the Office Action states that claim 6(a), which sets forth VCA p18/p40, would be reasonably interpreted to encompass all variants of these proteins that one in the art would term to be VCA p18/p40, but that claim 6(b) recites "functional variant," which could be interpreted to be any protein from VCA. It is on this basis that the Examiner alleges that the nucleic acid of Ambinder et al. could meet the limitations of claim 6(b) and thus rejects these claims as anticipated.

Applicants acknowledge that the Examiner interprets claim 6(a) to encompass all variants of VCA p18/p40 and it is applicants' view that claim 6(b), which recites a variant of said peptide described in (a), is also reasonably interpreted to be limited to variants of VCA p18/p40 and thus not anticipated by Ambinder et al., which applicants have previously pointed out does not disclose any nucleic acids encoding VCA p18/p40 peptides. However, to expedite prosecution of all of the claims of this application to issue, claim 6 is amended herein to delete part (b),

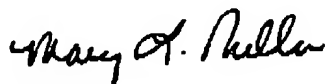
Attorney Docket No. 9310.13DVCTDV  
Serial No.: 10/036,729  
Filed: December 21, 2001  
Page 5 of 5

thereby addressing the Examiner's concerns. Thus, Ambinder et al. does not anticipate claims 6 and 9 as presented herein and applicants respectfully request withdrawal of this rejection and allowance of the pending claims to issue.

The points and concerns raised in the outstanding Office Action having been addressed in full, it is respectfully submitted that all of the claims of this application are in condition for allowance, which action is respectfully requested. Should the Examiner have any remaining concerns, the Examiner is invited and encouraged to contact the undersigned attorney directly by telephone in order to expedite the prosecution of this application.

No fee is believed due with this response. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

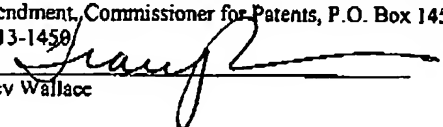


Mary L. Miller  
Registration No. 39,303

Customer No. 20792  
Myers Bigel Sibley & Sajovec, P.A.  
P. O. Box 37428  
Raleigh, North Carolina 27627  
Telephone: (919) 854-1400  
Facsimile: (919) 854-1401

**CERTIFICATION OF FACSIMILE TRANSMISSION  
UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office via the central facsimile number 571-273-8300 on June 7, 2006 and is addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Tracy Wallace